

L. Scott Keehn (SBN 61691)  
 Lynn M. Beekman (SBN 149325)  
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Special Counsel for  
**RICHARD KIPPERMAN, Chapter 7 Trustee**

**UNITED STATES BANKRUPTCY COURT**  
**SOUTHERN DISTRICT OF CALIFORNIA**

In re: ) **CASE NO. 99-33191-B7**  
 )  
**SARA NEWSOME BURNS**, an individual, ) **ADV. NO. 01-90355-B7**  
 )  
 Debtor. ) **APPEAL NO. 1**

\_\_\_\_\_) **APPELLANT'S:**  
 )  
**RICHARD KIPPERMAN**, Trustee, ) **(1) DESIGNATION OF THE**  
 ) **RECORD ON APPEAL; AND,**  
 )  
 Plaintiff, ) **(2) STATEMENT OF ISSUES ON**  
 ) **APPEAL.**  
 )  
 v. )  
 )  
**BRADLEY PROULX**, an individual, )  
 )  
 Defendant. )  
 )  
 \_\_\_\_\_)

TO THE BANKRUPTCY COURT AND TO ALL PARTIES IN INTEREST:

In accordance with and pursuant to Federal Rule of Bankruptcy Procedure 8006 Appellant Richard Kipperman, Trustee, hereby submits his (1) Designation of the Record on Appeal; and (2) Statement of Issues on Appeal.

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**I. DESIGNATION OF RECORD ON APPEAL.**

Appellant designates the following items to be included in the record on appeal:

- (1) Complaint by Richard M. Kipperman against Bradley Proulx 01-90355; Nature of Suit(s): 435 (Validity/Priority/Extent Lien), Fee Amount Filed by L. Scott Keehn on behalf of Richard M. Kipperman. (Bobis, T.)(Entered: 09/05/2001)
- (2) Summons Issued on Bradley Proulx Answer Due 10/4/2001 (Bobis, T.)(Entered 09/05/2001)
- (3) Answer to Complaint (Related Doc #1) filed by Bryan D. Sampson of Sampson & Associates on behalf of on behalf of Bradley Proulx. (Bobis, T.)(Entered 10/02/2001).
- (4) First Amended Answer of Defendant Bradley Proulx To Complaint to Determine Nature and Extent If Trustee's Lien And For Declaratory Relief (related document(s) 4) filed by Bryan D. Sampson of Sampson & Associates on behalf of Bradley Proulx (Bobis, T.) Modified on 11/20/2001 (Bobis, T.)(Entered: 11/20/2001).
- (5) Request for Judicial Notice *Of Exhibits In Support of Creditor And Defendant Bradley Proulx's Motion For Summar Judgment* filed by Bryan D. Sampson of Sampson & Associates on behalf of Bradley Proulx (related document 14). (Bobis, T.) Modified on 11/20/2001 (Bobis, T.)(Entered: 11/20/2001)
- (6) Declaration *of Bryan D. Sampson In Support Of Creditor Bradley Proulx's Motion For Summary Judgment* (related document(s) 14, 12) filed by Bryan D. Sampson of Sampson & Associates on behalf of Bradley Proulx. (Bobis, T.) Modified on 11/20/2001 (Bobis, T.). Modified on 11/20/2001 (Bobis, T.). (Entered 11/20/2001)
- (7) Notice of Motion and Motion *For Summary Judgment* filed by Bryan D. Sampson on behalf of Bradley Proulx. Scheduled for 12/17/2001 at 2:30 PM at Courtroom 4, Room 328, Weinberger Courthouse (Bobis, T.) (Entered 11/20/2001)
- (8) Memorandum of Points and Authorities *In Support of Creditor Bradley Proulx's Motion For Summary Judgment* (related document(s) 14) filed by Bryan D. Sampson of Sampson & Associates on behalf of Bradley Proulx. (Bobis, T.) (Entered: 11/20/2001)

- (9) Memorandum of Points and Authorities *in Opposition to Creditor Bradley Proulx's Motion for summary Judgment; and in Support of Summary Judgment in Favor of Trustee* (related document(s) 14) filed by L. Scott Keehn on behalf of Richard M. Kipperman (Attachments: #1 Request for Judicial Notice #2 Proof of Service ) (Keehn, L.) (Entered: 12/05/2001)
- (10) Declaration in Opposition *L. Scott Keehn in Opposition to Motion for Summary Judgment* (related document(s) 14) filed by L. Scott Keehn on behalf of Richard M. Kipperman. (Keehn, L.) (Entered: 12/06/2001)
- (11) Errata Memorandum of Points and Authorities (related document(s) 18) filed by L. Scott Keehn on behalf of Richard M. Kipperman. (Attachments: #1 Proof of Service) (Keehn, L.) (Entered: 12/06/2001)
- (12) Reply *Memorandum of Points And Authorities In Support of Creditor Bradley Proulx's Motion for Summary Judgment* (related document(s) 14) filed by Bryan D. Sampson of Sampson & Associates on Behalf of Bradley Proulx. (Bobis, T.) (Entered: 12/11/2001)
- (13) Declaration of *Bryan D. Sampson In Support of Creditor Bradley Proulx's Reply On Motion for Summary Judgment* (related document(s) 14) filed by Bryan D. Sampson of Sampson & Associates on Behalf of Bradley Proulx. (Bobis, T.) (Entered: 12/11/2001)
- (14) Reply *Trustee's Evidentiary Objections and Motion to Strike Portions of the Declaration of Bryan D. Sampson in Support of Creditor Bradley Proulx's Reply on Motion for Summary Judgment* (related document(s) 13) filed by L. Scott Keehn on behalf of Richard M. Kipperman. (Attachments: #1 Trustee's Request for Judicial Notice in Opposition to Creditor Bradley Proulx's Motion for Summary Judgment #2 Proof of Service) (Keehn, L.) (Entered: 12/16/2001)

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- (15) Reporter's Transcript of Hearing Held (related document(s) 17, 14, 1, 8) - Pretrial Status Conference/To Determine Nature & Extent of Trustee's Lien & For Declaratory Relief; Off Calendar; Motion for Summary Judgment, Granted in part..Denied in Part, Contested; Judgment for Defendant/Ord/Aronson. (Entered: 12/18/2001)
- (16) Order Granting Proulx's Motion for Summary Judgment (Related Doc # 14) signed on 12/23/2001. (Bobis, T.) (Entered: 12/28/2001)
- (17) Notice of Appeal No. 1 Fee Amount \$ 105 (related document(s) 26) filed by L. Scott Keehn on behalf of Richard M. Kipperman. Appeal Designation Due By: 1/14/2002. State of Issues Due by: 1/14/2002. Appellee Designation Due by 2/19/2001, (Attachments: # 1 Notice of Referral of Appeal to the Bankruptcy Appellate Panel w/service of Notice of Appeal #2 Transmittal Memorandum) (Herbold, K.) (Entered: 01/07/2002)
- (18) Amended Notice of Appeal No. 1 Fee Amount \$ 105 (related document(s) 26) filed by L. Scott Keehn on behalf of Richard M. Kipperman. Appeal Designation Due By: 1/14/2002. Statement of Issues Due By: 1/14/2002. Appellee Designation Due by: 1/24/2002. Record Transmission due by 2/19/2002, (Keehn, L.) (Entered 01/04/2002)
- (19) Receipt of Notice of Appeal (01-90355-PB) [appeal,97] (105.00) Filing Fee. Receipt number 0974B743361. Fee Amount 105.0 (U.S. Treasury) (Entered: 01/04/2002)
- (20) Judgment. Judgment Book: Volume Number 126 Page Number 9 (Kipperman v. Proulx) signed on 1/4/2002). (Bobis, T.) (Entered: 01/07/2002)

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1 **II. STATEMENT OF ISSUES ON APPEAL.**

2 This appeal presents the following major issue: Did the Bankruptcy Court err when it held as a  
3 matter of law that Defendant Proulx held a valid and enforceable lien on the "\$150,000 Cash Fund" [as  
4 that fund is ideoined in the Plaintiff's Complaint]?

5  
6 Dated: January 14, 2002

**ROBBINS & KEEHN**  
A Professional Corporation

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10 By: /s/ L. Scott Keehn  
11 L. Scott Keehn  
12 Attorneys for Appellant  
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